

Tyndall AFB Preventive Law Program Series

Legal Assistance Series

FINDING AN ATTORNEY

This handout contains basic information. If you have specific questions, come in to see a Judge Advocate for legal assistance.



OFFICE OF
THE STAFF JUDGE ADVOCATE 325 FW/JA
TYNDALL AFB, FL 32403

FINDING AN ATTORNEY

The decisions about when and how to hire a civilian lawyer are often difficult to make. It is not always obvious when you need to hire an attorney, how to go about finding one, what qualities to look for, or how you will be charged for the attorney's services. It is often also difficult to know what to do if you are dissatisfied with a civilian lawyer that you have already hired. This pamphlet will provide you with some basic information you can use to begin to answer these questions.

Do I need to hire a lawyer?

This is a highly personal decision. You need to assess your situation and determine whether you need help from a skilled professional. There are certain situations in which you almost always need to seek legal advice, such as you are charged with a crime, a party in a divorce action, or named as the defendant in a civil case. Although you can represent yourself in all these situations if you choose to, this is a very risky option if you do not have legal training. Laws and court rules can be very complex, and you will not have the professional expertise or experience to help you understand them that an attorney has.

Other common times when people often need advice from a lawyer are when buying or selling real estate, suing another party, starting a new business, declaring bankruptcy, deciding whether to sign court documents or releases, estate planning advice, marriage, adoption, or tax problems.

Before hiring a lawyer, ask yourself what is at stake. If a situation is putting your liberty, a significant amount of your finances, or something else that is very important to you in jeopardy, then you probably should consult an expert to help you protect your interests. On the other hand, many disputes can be resolved without legal action by negotiating, writing letters, calling appropriate regulatory or local government agencies, or other means. Remember that hiring a lawyer can be expensive, so carefully assess what is at stake. Many times if the dollar amount in controversy is small, it may not be worth the expense to hire a lawyer to help you recover it no matter how angry you may be about the situation.

If you need very basic, general information about a certain subject, Florida Call-A-Law is a service that provides recorded messages on many legal topics for the cost of a phone call. Each tape is approximately 2 – 3 minutes long. The service can be reached by calling (850) 561-1200.

How do I find a lawyer?

Make a careful decision about your choice of a lawyer; it is an important decision. There are many ways to go about finding a lawyer. One of the best ways is to get a referral from a relative or friend who hired the lawyer for the same or a similar purpose you are and was satisfied with the lawyer's performance. Be sure the matter the friend or relative consulted the attorney on was similar to your problem, because lawyers have different levels of expertise in different areas. Just because an attorney won a big settlement for someone in a tort case does not mean that he or she would do a good job handling your divorce. Many lawyers have a general practice, while some concentrate on one or more specific areas of the law. There are also lawyers that become board certified in specific fields. However, many qualified lawyers are not board certified. To

become board certified a lawyer must be: in good standing of the Florida Bar, have practiced for 5 years, pass a exam in that specialty, be favorably evaluated in that field by judges and other lawyers, exhibit good character, ethics and professionalism. The certification is valid for 5 years.

Of course, not everyone can rely on personal referrals. You can consult a local attorney referral service to help you find attorneys in your area that handle the kind of case or problem you have. Often these are run by the state bar association. Attorneys who participate in the referral program will offer low cost initial consultations at prices set by the referral organization. However, you should not consider a lawyer more competent just because you obtained his or her name through a referral service; these services do not vouch for the quality of the services provided by the lawyers they refer to. There is no substitute for asking your own questions and doing your own research. However, if the attorney is referred by a service associated with the state bar, the attorney should be in good standing in that state. In Florida, you can obtain referrals from the **Florida Bar Lawyer Referral Service by calling 1-800-342-8011 or 850-561-5844**. Also see a list of other state bars at the end of this pamphlet.

You can also obtain a lawyer by looking in the phone book or through advertisements.

Once I find a lawyer, how do I know if I should hire him?

The first thing you should do is find out if the lawyer is in good standing with the state bar, or if any disciplinary actions have been taken against him or her. You may do this by contacting the state bar in your state. In Florida, you may call (850) 561-5600, or (in-state) 800-342-8060, or try the Florida Bar Association website at www.flabar.org.

The next step is to call the lawyer's office to schedule an initial consultation. Typically, you'll speak to a receptionist or secretary. Ask her if the lawyer handles the type of case you are seeking to bring, and how much of his or her practice involves that type of case. Although all lawyers are considered competent to practice in any area of law (with the exception of a few specialized areas, such as patent law) actual skill levels and experience levels in different areas vary. You want to hire a lawyer who is experienced handling your kind of case. Just because a lawyer gives great tax advice does not mean he could handle your divorce case well, and a divorce lawyer might not have any experience advising you about your taxes or drawing up a trust. Be aware that just because a lawyer claims to specialize in a certain area does not mean that he or she has received any additional training or education in that area.

Many lawyers provide free or low cost initial consultations. You should ask the lawyer's receptionist if he or she provides reduced fee initial consultations before agreeing to come in to see the attorney. If not, ask what the fee is.

Once you arrive for the initial consultation, you will have to decide if you want to retain the lawyer to handle your case (and the lawyer has to decide if he or she is willing to take your case). Ask the attorney questions about his or her education and experience. Make sure you bring with you a written summary that outlines your problem. Also bring any and all documents that pertain to the problem. Make sure he or she has handled similar cases before. If it is a routine problem ask if there is a standard fee, and if so, what does it cover. Make sure that he or she explains the possible outcomes and alternative ways of proceeding to resolve your dispute. Ask

if he/she will be personally working on the case and if anyone else will be working on it. Be wary of a lawyer who tells you your case is a “sure thing” because a lawyer can never guarantee that you will win a case. A lawyer who promises you that you will definitely win is making a promise that he cannot keep. Assess whether the lawyer seems knowledgeable, willing to work with you to achieve your objectives, and is someone you feel comfortable having handle your affairs.

If you are still satisfied with the lawyer, tell him/her everything about the problem. This includes facts that may be unfavorable or embarrassing to you. You must be completely candid to receive good legal advice. There are strict rules that prevent a lawyer from repeating what you said, unless you admit to ongoing or planned criminal activity. Next, ask the lawyer questions such as: what are the strengths/weaknesses of my case? Can a timetable be established? How often will you stay in touch with me?

What about fees?

ALWAYS ask the attorney how he calculates his fee prior to retaining him, and if you do decide to hire the attorney get the fee agreement in writing. A lawyer should always agree to give you a written copy of the fee agreement, which should spell out the lawyer’s method of calculating his or her fee, hourly rates, and what services the lawyer agrees to perform. Make sure you find out who will pay filing fees and court costs; often these expenses are not included in the lawyer’s fee and will be billed to you later.

Attorneys typically charge for services in one of the following ways: hourly billing, charging a flat fee, or charging a contingent fee.

Hourly billing- This is the most common billing arrangement for legal services. The lawyer charges a certain amount per hour for the work put into your case. The amount charged per hour depends on the location of the practice and the lawyer’s skill and experience. Cheaper is not necessarily better, but a high hourly rate does not necessarily mean a better lawyer either. If the lawyer charges an hourly rate, ask him or her for a general idea about how many hours he or she thinks your case will take to resolve. An experienced lawyer should be able to give you some idea, but will not be able to give you an exact amount. Additionally, new facts or contingencies could arise later in the case that require more work, and thus may make the case more expensive. For instance, if an amicable divorce turns nasty midway through, the lawyer may end up devoting significantly more time to arguments over property settlements, alimony, and child custody than originally anticipated. You need to be aware that this will increase the costs you will end up paying the lawyer for his or her services. Additionally, you should ask about the billing rates for paralegals and what role they will have in handling your case. The lawyer should delegate simpler tasks to them in order to keep costs down for you, the customer.

You may be asked to put up a certain amount up front, called a “retainer,” from which the lawyer will deduct his hourly rate. Unless agreed, the amount of the retainer is not a ceiling on the lawyer’s fees; if your case is not resolved when the retainer runs out you may have to pay the lawyer more money if you want him or her to continue working on the case. Also, be sure you know if you are entitled to get any unused portion of the retainer back if you drop the case or fire the lawyer.

Flat fee- This fee arrangement is often used in simple cases such as uncontested divorces or for the preparation of simple wills. The lawyer will charge a set amount to perform a certain type of service for the client. Be sure you know what the flat fee includes. Also, be aware that if your case becomes more difficult than originally anticipated you may no longer qualify for the flat fee and become subject to hourly rate billing. The lawyer should notify you if this occurs.

Contingent fee- This fee arrangement is often used in tort cases. The client pays nothing until a settlement is reached or an award is won. Then, the lawyer will take an agreed upon percentage of the settlement or award, usually one-third. If the lawyer loses the case, the client pays nothing. This type of fee is illegal in divorce, child custody, and criminal cases.

What if I can't afford a lawyer?

If you are being charged with a crime and are considered indigent, a free attorney will be appointed to represent you.

If the matter is a civil matter, contact Legal Aid or the state bar association and inquire whether you qualify for free or low cost representation. Generally, there are both income restrictions and subject matter restrictions for free and reduced cost legal services. Legal Services of North Florida can be reached by calling (850) 769-3581.

In tort and debt collection cases, often the best bet will be to hire an attorney on a contingent fee basis.

Can I fire my lawyer?

Usually, yes. You are the customer. However, if your case has already been filed in court you will usually need the court's permission to fire your lawyer. Usually the court will grant permission, unless the case is close to trial and the judge feels that changing attorneys now will cause a delay. Even in this case, the court should grant permission for you to fire your lawyer if you have good cause.

Be sure you know what part of the attorney's fee you will owe if you fire your lawyer. You probably will be responsible for time and costs up to that point.

What if I have a dispute about my bill?

The Florida Bar Association runs a Fee Arbitration Program. Both the client and the attorney pay a small filing fee, and they will be given the opportunity to argue their side of the case before an arbitrator, who will decide the "fair and reasonable value" of the lawyer's services. Arbitration is a voluntary method of resolving disputes without resorting to suing the adverse party, but once arbitration of the dispute is agreed to the arbiter's decision is binding. You can contact the arbitration program coordinator by calling (850) 561-5600.

If you decide not to arbitrate, you may sue the lawyer in court. This is a more expensive process, and you will still have to prove why the lawyer is not entitled to the fee charged.

What if my lawyer has acted unethically or committed malpractice?

If you believe that your lawyer has acted unethically, you may file a complaint with the state bar. In Florida, you can contact the Florida Bar to obtain more information about the complaint process by calling (866) 352-0707 or (850) 561-5673.

You will rarely be able to determine whether your lawyer performed so poorly that it would be considered malpractice. However, if you believe that your lawyer has committed malpractice you may sue him or her. Because legal malpractice cases are complicated and very hard to win, you will need to hire another attorney in order to do this.

If you have any additional questions about hiring a civilian attorney, you may contact the Florida Bar Association, or you may speak to a judge advocate. However, keep in mind that judge advocates may not refer you to specific attorneys, nor can they file complaints against civilian lawyers on your behalf.

Other state bar associations.

| <i>State/Territory</i> | <i>Phone Number</i> | <i>Internet address</i> | <i>Cost Information</i> |
|------------------------|---------------------|---|--|
| Alabama | 1-800-392-5660 | http://www.alabar.org/lrs/ | \$25.00 for the first 30-minute |
| Alaska | 907-272-0352 | http://www.alaskabar.org/ | \$50 for an initial half-hour |
| Arizona | 602-257-4434 | http://www.azbar.org/ | |
| Arkansas | 501-375-4901 | http://www.arkansasfindalawyer.com/ | |
| California | 415-538-2283 | http://www.calbar.ca.gov | |
| Colorado | 303-831-8000 | http://www.cobar.org/ | |
| Connecticut | 860-612-2003 | http://www.ctbar.org/ | |
| Delaware | 302-478-8850 | http://www.dsba.org/ | 30 minutes for a fee of \$35.00. |
| DC | 202-296-7845 | http://www.dcbat.org/ | |
| Florida | 1-800-342-8011 | http://www.flabar.org/ | |
| Georgia | 404-521-0777 | http://www.gabar.org/ | |
| Hawaii | 808 537-1868 | http://www.hsba.org | |
| Idaho | 208-334-4500 | http://www2.state.id.us/isb/ | |
| Illinois | 217/525-5297 | http://www.illinoislawyerfinder.com/ | |
| Indiana | 317-639-5465 | http://www.inbar.org | |
| Iowa | 515-280-7429 | http://www.iowabar.org/main.nsf | \$25 for the first 30 minutes |
| Kansas | 785-234-5696 | http://www.ksbar.org/ | |
| Kentucky | 502-564-3795 | http://www.kybar.org/public.html | |
| Louisiana | 1-888-503- 5747 | http://www.lsba.org/ | half-hour for a fee of \$25 |
| Maine | 207-623-0083 | http://www.mainebar.org/ | |
| Maryland | 410-685-7878 | http://www.msba.org/ | |
| Massachusetts | 617-338-0610. | http://massbar.org/ | It's Free! |
| Michigan | 1-800-968-0738 | http://www.michbar.org/ | 30 minutes for \$20.00 |
| Minnesota | 1-800-292-4152 | http://www.mnbar.org/ | 30-minute for \$25 |
| Mississippi | 601-948-4471 | http://www.msbar.org/ | |
| Missouri | 573-636-3635 | http://www.mobar.org/ | 30 minutes for \$25 |
| Montana | 406-449-6577 | http://www.montanabar.org/ | 30 minutes for \$30 |
| Nebraska | 1-800-742-3005 | http://www.nebar.com/ | |
| Nevada | 702-382-0504 | http://www.nvbar.org/ | \$25 1 st visit, then \$75 per hr max |
| New Hampshire | 603-229-0002 | http://www.nhbar.org/ | |
| New Jersey | 1-800-367-0089 | http://www.njsba.com/ | |
| New Mexico | 1-800-876-6227 | http://www.nmbar.org | 30 minute for \$26.45 |

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| New York | 1-800-342-3661 | http://www.nysba.org | 30 minutes for up to \$25 |
| North Carolina | 919-677-8574 | http://www.ncbar.org | 30 minutes for up to \$30 |
| North Dakota | 701-255-1406 | http://www.sband.org | 30 minutes for \$30 on Tuesday, Wednesday, and Thursday from 9:00 a. m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m |
| Ohio | 614-487-2050 | http://www.ohiobar.org/conres/findlawyer/referral.asp | 30 minutes for a fee of \$15-\$25 |
| Oklahoma | 918-584-5243 | http://www.okbar.org/publicinfo/lawref.htm | 30 minutes for \$20 Tulsa County Bar Center, 1446 South Boston, Tulsa, Monday through Thursday, 9 - 11 a.m. and 2 - 4 p.m. |
| Oregon | 503-684-3763 | http://www.osbar.org/1legallinks/public/ris/ris.html#referral | first in-office consultation for \$35 or less |
| Pennsylvania | 1-800-692-7375 | http://www.pabar.org/specialprograms.shtml | 30 minutes for \$25 |
| Rhode Island | 401-421-7799 | http://www.ribar.com/public/choose.asp | 30 minutes for \$25, persons aged 60 or older are eligible for a free 30-minute consultation 401-521-5040 |
| South Carolina | 1-888-321-3644 | http://www.scbars.org/public.asp | Answer your legal questions for free on Mondays, Tuesdays, Wednesdays and Thursdays from 1 p.m. to 5 p.m. and on Fridays from 9 a.m. to noon |
| South Dakota | 1-800-952-2333 | http://www.sdbar.org/referral/Default.htm | |
| Tennessee | East TN: 865-522-7501 Middle and West TN: 615-242-6546 Southeast TN: 423-756-3222 | http://www.tba.org/LawBytes/T1_1000.html | 30 minutes for \$25 |
| Texas | 1-800-252-9690 | http://www.texasbar.com/public/findlawyer/lawyerref.asp | 30 minutes for \$20 |
| Utah | 1-800-698-9077 or 1-801-531-9075 | http://www.utahbar.org/forms/html/lawyer_referral_request.html | 30 minutes for \$30 |
| Vermont | 1-800-639-7036 | http://www.vtbar.org/static/vtbar/lawyer_referral/information.php | 30 minutes for \$25 |
| Virginia | 800 552-7977 | http://www.vsb.org/vlrs.html | 30 minutes for \$35 |
| Virgin Islands | St. Croix: 340-778-7497 or St. Thomas: 340-774-6680 | http://new.onepaper.com/vibarherald/?v=d&i=&s=References:Public+Resources&p=46840 | Virgin Islands Bar Association P.O. Box 4108 Christiansted, USVI 00822 Phone: [1] (809) 778-7497 Fax: [1] (809) 773-5060 |
| Washington | 1-888-201-1014 | http://www.waaccessjustice.org/legasst | |
| West Virginia | 304-558-2456 | http://www.wvbar.org/referral/ | 30 minutes for \$10 |
| Wisconsin | 608-257-4666 | http://www.wisbar.org/bar/lris/ | 30 minutes for \$20 |
| Wyoming | 307-632-9061 | http://www.wyomingbar.org/need_an_attorney.asp#referral | |